

**UNITED STATES DEPARTMENT OF COMMERCE****Patent and Trademark Office**

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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/545,582 04/07/00 UBER, III

A VI/96-068.RE

021140
GREGORY L BRADLEY
MEDRAD INC
ONE MEDRAD DRIVE
INDIANOLA PA 15051

0M12/0321

EXAMINER

CASLER, B

ART UNIT

PAPER NUMBER

3737

DATE MAILED:

03/21/01

6

Please find below and/or attached an Office communication concerning this application or proceeding.

Commissioner of Patents and Trademarks

Office Action Summary	Application No.	Applicant(s)
	09/545,582	UBER, III ET AL.
	Examiner Brian L Casler	Art Unit 3737

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on 4/7/00.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-62 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) Claim(s) _____ is/are allowed.
- 6) Claim(s) 1-62 is/are rejected.
- 7) Claim(s) _____ is/are objected to.
- 8) Claims _____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on _____ is/are objected to by the Examiner.
- 11) The proposed drawing correction filed on _____ is: a) approved b) disapproved.
- 12) The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. § 119

- 13) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) All b) Some * c) None of:
1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. _____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

Attachment(s)

- 15) Notice of References Cited (PTO-892) 18) Interview Summary (PTO-413) Paper No(s). _____
- 16) Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) Notice of Informal Patent Application (PTO-152)
- 17) Information Disclosure Statement(s) (PTO-1449) Paper No(s) 2 . 20) Other: _____

Reissue Applications

1. While there is concurrent litigation related to this reissue application, action in this reissue application will NOT be stayed because of applicant's request that the application be examined at this time. Due to the related litigation status of this reissue application, EXTENSIONS OF TIME UNDER THE PROVISIONS OF 37 CFR 1.136(a) WILL NOT BE PERMITTED.

Certificate of Correction

In the preliminary amendment, paper #3, applicant added patent references to the title page. However such changes **must** be entered in the reissue application **without** bracketing or underlining. Please resubmit without underlining.

Priority

An application in which the benefits of an earlier application are desired must contain a specific reference to the prior application(s) in the first sentence of the specification (37 CFR 1.78). The first line of the specification must be amended to include a reference to the related Reissue RE36648.

Furthermore, a Certificate of Correction is necessary amending the first line of RE36648 to include a reference to the current Reissue application.

Double Patenting

2. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

3. Claims 1-62 are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over claims 8-44 of U.S. Patent No. RE36648. Although the conflicting claims are not identical, they are not patentably distinct from each other because claims 8-21 and 23 of the present Reissue application represent an obvious broadening of the scope of claims 8-44 of RE36648 and claims 1-7,22, and 24-62 of the present Reissue application include subject matter directed to a rechargeable battery for powering the motor control and electric drive motor wherein the battery is non-reactive with the MR apparatus, which represent obvious variations of claims 17, 27, and 35 of RE36648 which teach a rechargeable battery for powering the injector apparatus. The well known standard operation of a device using rechargeable batteries includes removing and recharging the batteries.

Claim Rejections - 35 USC § 103

4. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 1-7,22,24 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saini et al. in view of Boyd.

Saini et al. teaches everything including an MRI suite with an injector system having a separate motor/drive unit and controller positioned away from the injector and a flexible drive shaft between the drive unit and the injector.

Saini et al. does not teach the use of a rechargeable battery a recharger unit or the type of material used for the flexible drive shaft.

Boyd teaches a biomedical injector apparatus that includes a rechargeable battery or a typical AC supply as the power source.

The use of brass as the flexible drive shaft is a matter of design choice. It would have been obvious at the time the invention was made to one of ordinary skill in the art to use a rechargeable battery and an associated charger to power the injector device of Saini et al. as taught by Boyd and as a matter of design choice. One of ordinary skill in the art would recognize the need for a recharger to recharge the rechargeable batteries used in Boyd. Furthermore, the process of recharging batteries as part of the use of rechargeable batteries is well known.

6. Claims 8-16,18-20,21,23 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saini et al. in view of Sugahara.

Saini et al. teaches everything as stated supra, including controlling the injector.

Saini et al does not teach communicating/controlling the injector from another room through a communication/control link.

Sugahara teaches an MR shielded room with a control room adjacent the MR room with a window looking into the MR room and optical control between the control room and various equipment in the MR room. The optical communication may include fiber cables or infrared/laser transmission through the window.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to locate the controller of Saini et al. in an adjacent room to reduce interference with the imaging fields and to connect the controller to the injector by a optical communications/control link to avoid interference with the MR fields as taught by Sugahara.

7. Claims 17,25-32,34-51,53-61 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saini et al. in view of Sugahara, as set forth in paragraph 4 above, and further in view of Boyd.

Saini et al. in view of Sugahara teaches everything as stated supra. Saini et al. in view of Sugahara does not teach a battery powered injector or using rechargeable batteries.

Boyd teaches a biomedical injector apparatus that includes a rechargeable battery or a typical AC supply as the power source.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to use a rechargeable battery and an associated charger to power the injector device of Saini et al. as taught by Boyd and as a matter of design choice. One of ordinary skill in the art would recognize the need for a recharger to recharge the rechargeable batteries used in Boyd. Furthermore, the process of recharging batteries as part of the use of rechargeable batteries is well known.

8. Claims 33,52,62 are rejected under 35 U.S.C. 103(a) as being unpatentable over Saini et al. in view of Sugahara as set forth in paragraph 4 above and further in view of Reilly et al.

Saini et al. teaches everything as stated supra. Saini et al does not teach the use of a dual injector.

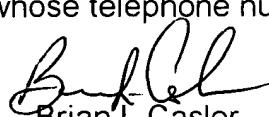
Reilly et al. teaches the use of a dual injector on a rotating turret to allow for rapid multiple injections.

It would have been obvious at the time the invention was made to one of ordinary skill in the art to include a dual injector system in the device of Saini et al. to allow for rapid multiple injections as taught by Reilly et al.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Brian L Casler whose telephone number is 703-308-3552. The examiner can normally be reached on days M - F.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Marvin Lateef can be reached on 703-308-3256. The fax phone numbers for the organization where this application or proceeding is assigned are 703-308-0758 for regular communications and 703-308-0758 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-308-0858.



Brian L Casler
Primary Examiner
Art Unit 3737